IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3592 OF 2005

Deepak Keshav Babade. ... Applicant.

Versus.

State of Maharashtra. ... Respondent.

Shri R.D.Suryawanshi for the Applicant.

Shri K.V.Saste, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 17th June, 2005.

P.C.:

1. The offence has been registered against the Applicant and his mother at Ulhasnagar Police Station under section 302, 323, 363, 504 read with section 34 of the Indian Penal Code. The mother of the Applicant is already enlarged on bail. The age of the Applicant is 18 years.

2. The alleged incident took place on 6th February 2005. The allegation is that the Applicant and his mother suspected that the deceased Bhagwan had stolen the necklace of Applicant's sister. The allegation is that the deceased was working as a coolie outside Shahad Railway Station. The allegation in the F.I.R. filed by the wife of the deceased is that the Accused caught hold of the deceased and the present Applicant gave a blow to the deceased by kick. Thereafter the Applicant along with another person dragged the deceased Bhagwan to

Shahad Station. The deceased expired on the same day.

3. The learned Counsel for the Applicant submitted that considering the fact that the age of the Applicant is only 18 years and considering the statements made in the F.I.R. the Applicant deserves to be enlarged on bail. He pointed out that the investigation is complete and charge sheet has been filed. He submitted that ingredients of offence under section 302 are not even primafacie established and at the highest the case can be covered by the second part of section 304 of the said Code.

4. The learned A.P.P. has opposed the application by pointing out material on record. The learned A.P.P. pointed out that all the witnesses are staying within the jurisdiction of Ulhasnagar Police Station and therefore, there is every possibility that the Applicant, if enlarged on bail, will try to pressurise the witnesses.

5. The other accused viz. the mother of the Applicant, is already enlarged on bail by the learned Additional Sessions Judge. The allegation made against the Applicant herein in the F.I.R. is that he gave one blow to the deceased by kick and thereafter he dragged the deceased to Shahad Station. The prosecution case is that the Applicant and his mother suspected that the

deceased has committed theft.

6. Considering these facts and circumstances and the age of the Applicant, a case is made out to enlarge the Applicant on bail. It is to be borne in mind that the age of the Applicant is only 18 years. The apprehension expressed by the learned A.P.P. can be taken care of by directing the Applicant not to enter the area falling within the jurisdiction of Ulhasnagar Police Station. The learned Counsel appearing for the Applicant has no objection for following the said course.

7. Hence the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with C.R.No.I-31/2005 registered at Ulhasnagar Police Station, subject to furnishing P.R.Bond in the sum of Rs.15,000/- with one or two local sureties in the like amount.

(ii) The Bail is granted subject to condition that after the Applicant is enlarged on bail, he will not enter the limits of jurisdiction of Ulhasnagar Police Station without permission of the concerned Additional Sessions Judge.

(iii) After the Applicant is enlarged on bail, he will furnish his residential address to the concerned Investigating Officer and the Applicant will attend the concerned local Police Station on every Sunday between 11.00 a.m. and 1.00 p.m. till conclusion of trial.

(iv) The Applicant will attend the trial Court on all dates fixed for hearing and will cooperate with the learned Judge for early disposal of the trial. In case there is default on the part of the Applicant, it will be a ground for cancellation of bail.

(v) The Application is disposed of in the above terms.

(vi) The parties to act on an authenticated copy of this order.

Judge.